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APPLICATION NO.	FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/777,249	02/12/2004		Gregory O. Ness	P10959.00	5389	
27581	7590	01/25/2006		EXAMINER		
MEDTRONIC, INC. 710 MEDTRONIC PARK				FLANAGAN, BEVERLY MEINDL		
MINNEAPOLIS, MN 55432-9924				ART UNIT	PAPER NUMBER	
				3739		

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		Applicat	on No.	Applicant(s)					
		10/777,2	49	NESS, GREGORY O.					
	Office Action Summary	Examine	Г	Art Unit					
			1. Flanagan	3739					
Period fo	The MAILING DATE of this commur r Reply	nication appears on th	e cover sheet with the c	orrespondence ad	ldress				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).									
Status									
1)	Responsive to communication(s) file	ed on							
·	•	2b) This action is	non-final.						
3)	Since this application is in condition	for allowance excep	t for formal matters, pro	secution as to the	e merits is				
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.								
Dispositi	on of Claims								
4)🖂	4)⊠ Claim(s) <u>1-50</u> is/are pending in the application.								
	4a) Of the above claim(s) is/are withdrawn from consideration.								
5)	5) Claim(s) is/are allowed.								
	Claim(s) is/are rejected.								
	Claim(s) is/are objected to.								
8)⊠	Claim(s) <u>1-50</u> are subject to restrict	ion and/or election re	quirement.						
Applicati	on Papers								
9)☐ The specification is objected to by the Examiner.									
10) The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner.									
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).									
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).									
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.									
Priority u	ınder 35 U.S.C. § 119								
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:									
/.	1. Certified copies of the priority documents have been received.								
	2. Certified copies of the priority documents have been received in Application No								
	3. Copies of the certified copies of the priority documents have been received in this National Stage								
application from the International Bureau (PCT Rule 17.2(a)).									
* See the attached detailed Office action for a list of the certified copies not received.									
			45	Ly MI	Men				
Attachmen	t/e)		B: /E	EVERLY M. FLANAG PRIMARY EXÁMINE	ian R				
_	e of References Cited (PTO-892)		4) Interview Summary	(PTO-413)					
2) Notic	e of Draftsperson's Patent Drawing Review (Paper No(s)/Mail Di	ate	O-152)				
	mation Disclosure Statement(s) (PTO-1449 o r No(s)/Mail Date	r P10/SB/08)	6) Other:	atent Application (F1)	O-102)				

Application/Control Number: 10/777,249

Art Unit: 3739

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10 and 31-50, drawn to an access instrument, classified in class606, subclass 1.
- II. Claims 11-30, drawn to an epicardial lead access instrument, classified in class 604, subclass 46.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the access device is recited without a distal electrode head. The subcombination has separate utility such as an access device with a distal electrode head for performing different surgical functions.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Art Unit: 3739

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Beverly M. Flanagan

Primary Examiner